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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,148	10/22/2001	Joseph David Rigney	13DV13878	4144
31450	7590	12/07/2005	EXAMINER	
MCNEES WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166			ROSENBAUM, MARK	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 12/07/2005

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/086,148
Filing Date: October 22, 2001
Appellant(s): RIGNEY ET AL.

MAILED

DEC 07 2005

Group 3700

K. SCOTT O'BRIAN
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/25/04.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because all claims were similarly rejected i.e. if the rejection is improper for claim 2 then it is improper for all of the claims. It is also noted that

appellant omitted claim 27 in the Groupings, but this claim too stands or falls with the remainder of the claims.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Evidence Relied Upon

5,723,078	NAGARAJ et al	3-1998
5,419,971	SKELLY et al	5-1995

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 2,4,8,9,21-23,27 are rejected under 35 U.S.C. 102(b). This rejection is set forth in a prior Office Action, mailed on 10/6/03.

Claims 2-27 are rejected under 35 U.S.C. 103. This rejection is set forth in a prior Office Action, mailed on 10/6/03.

(11) Response to Argument

Appellants first argue that the '078 reference does not disclose a 'predetermined pattern' concerning the grooves. This argument is not persuasive because the '078' reference uses a laser beam to form the pattern, whether regular or irregular, and it is inherent that one skilled in the art would have made some type of 'predetermined' decision as to how the laser beam was going to be used to form whatever pattern desired. Contrary to appellants' remarks, it is held that even 'random texturing' falls within the scope of 'predetermined pattern' since it is predetermined that the texture will be random.

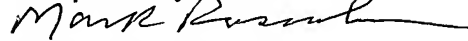
The argument concerning the repairing of articles versus forming new articles is also not persuasive. The disclosure in Skelly et al is designed to prevent spalling while the repair process of the '078 reference is used to repair an already spalled surface and to prevent further spalling from occurring i.e. whether a process is for repairing or making new does not change the general concept of preventing spalling from occurring. Furthermore, applying the predetermined pattern to an entire surface as in Skelly et al or a portion of a surface as in the '078 reference does not change the teaching of preventing spalling from occurring with the use of grooves, and this is what is being used to modify the '078 reference.

For the above reasons, it is believed that the rejections should be sustained.

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Art Unit: 3725

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Respectfully submitted,



Mark Rosenbaum
Primary Examiner
Art Unit 3725


MR
November 28, 2005

Conferees



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